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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,706	10/28/2003	Chi Fai Ho	110 Cont3	5206

7590 04/10/2006
Peter Tong
1807 Limetree Lane
Mountain View, CA 94040

EXAMINER

STALLARD, JOSEPH A

ART UNIT	PAPER NUMBER
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3715

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/694,706	HO ET AL.	
	Examiner	Art Unit	
	J. Andrew Stallard	3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/28/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-47 and 49-63 is/are pending in the application.
- 4a) Of the above claim(s) 52-55 and 58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-47, 49-51, 56, 57 and 59-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/05; 9/05; 1,3/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

In response to the amendment filed March 28, 2005, claims 1-38 and 48 are canceled, claims 52-55 and 58 are withdrawn and claims 39-47 and 49-63 are pending.

Information Disclosure Statement

The information disclosure statement filed May 7, 2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because copies of items 109-110 and 125-155 are missing and items 2-3, 92-93, 95-119, 144, 150-153 and 155 are improperly cited. Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, and relevant pages of the publication, date, and place of publication. See 37 CFR 1.98(b)(5). See MPEP 707.05(e) for more information on proper citations.

It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the

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statement, including all certification requirements for statements under 37 CFR 1.97(e).

See MPEP § 609.05(a).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 39-47, 49-51, 56-57 and 59-63 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The limitation that the adjustment is capable of improving the user's concentration in learning the subject is not concrete. In order to be concrete a process must have a result that can be substantially repeatable or the process must substantially produce the same result again, or, in other words, there must be a reasonable expectation of success or it's guaranteed. In this instance, there is no reasonable expectation that user will receive this benefit.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 39-43, 45, 49-51, 56-57 and 59-63 are rejected under 35 U.S.C. 102(b) as being anticipated by Petrusinsky (US 4,037,332).

Claim 39: Petrusinsky discloses a computer-implemented method for assisting a user to learn a subject, the method comprising: presenting materials on the subject to the user via a computer (*col. 4, 4-9; An audiovisual unit portion of the system (computer) presents materials computed by the system (col. 1, 6-10).*); monitoring a timing regarding an input by the user to the computer, with the input being in response to the materials (*col. 22, 54-61; Reaction speed is measured in response to the materials (study information).*); analyzing the timing (*col. 18, 62-66; The term "analysis" is not explicitly used, however, the steps of the analysis is shown when response time is used to determine the level of study information signals.*); and adjusting the materials for presenting to the user in response to the analysis of the timing, wherein the adjustment adjusts an audio effect regarding presenting the materials on the subject, which is capable of improving the user's concentration in learning the subject (*col. 3, 6-18; Audiovisual signals can be adjusted with due regard for the reaction time of the user (student).*).

Claim 40: Petrusinsky discloses a computer-implemented method for assisting a user to learn a subject, the method comprising: presenting materials on the subject to the user via a computer (*col. 4, 4-9; col. 1, 6-10*); monitoring a timing regarding an input by the user to the computer, with the input being in response to the materials with the

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monitoring comprising monitoring the timing during different periods within a session for learning the materials (*col. 18, 36-53; Reaction time can be monitored, which monitoring can be done during different periods.*); analyzing the timing with the analyzing comprising comparing the timing from different periods (*col. 18, 40-53; Number of responses (timing, response time) can be compared over the last period.*); and adjusting the materials for presenting to the user in response to the analysis of the timing, with the adjusting comprising adjusting the materials in response to a change in the timing from different periods wherein the adjustment is capable of improving the user's concentration in learning the subject (*col. 18, 36-53; Materials can be adjusted based on the timing by, at least, presenting an additional program before continuing with the study information.*).

Claim 41: Petrusinsky discloses wherein monitoring the timing comprises monitoring a time lag between when material is presented and when the user first responds to the material (*col. 22, 58-61; Reaction speed can be determined from a time lag.*).

Claim 42: Petrusinsky discloses wherein monitoring comprises monitoring a speed of the user's input (*col. 18, 10-17; Reaction speed can be monitored.*).

Claims 43 and 60: Petrusinsky discloses wherein adjusting the materials for presenting comprises adjusting the materials independent of the content of the input (*col. 15, 11-16; Materials can be adjusted by an operator irrespective of the subject being taught.*).

Claims 45 and 61: Petrusinsky discloses wherein adjusting the materials for presenting comprises presenting a question in response to the analysis of the timing (*col. 15, 28-33; Study information can comprise questions.*).

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Claims 49 and 62: Petrusinsky discloses wherein adjusting the materials for presenting comprises changing a pace of the presentation of materials in response to the analysis of the timing (*col. 3, 6-9; Presentation of materials can be delayed in time.*).

Claim 50: Petrusinsky discloses wherein adjusting the materials for presenting comprises increasing a stimulation level of the materials in response to the analysis of the timing (*col. 3, 14-18; Stimulation signals can be included in the audiovisual signals of study material.*).

Claims 51 and 63: Petrusinsky discloses wherein adjusting the materials for presenting comprises switching to a different set of materials in responses to the analysis of the timing (*col. 18, 36-53; An additional program can be presented in response to analysis of timing.*).

Claim 56: Petrusinsky discloses a computer-implemented method for assisting a user to learn one or more subject(s) over two or more sessions, the method comprising: presenting materials on a subject to the user in a session via a computer (*col. 4, 4-9; col. 1, 6-10*); monitoring a timing of an input by the user to the computer, with the input being in response to the materials (*col. 22, 54-61*); analyzing the timing taking into consideration the timing of an input by the user to a computer during another session; adjusting the materials for presenting to the user in response to the analysis of the timing, wherein the adjustment is capable of improving the user's concentration in learning the subject (*col. 32, 65 – col. 33, 8; Response times (timing) can be recorded, and material can be adjusted so sessions are repeated until response times are analyzed to be at a desired level.*).

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Claim 57: Petrusinsky discloses keeping track of a characteristic of the user and updating the characteristic based on the monitored timing (*col. 32, 65 – col. 33, 8; Number of responses of a user can be kept track of and updated.*).

Claim 59: Petrusinsky discloses a computer-implemented method for assisting a user to learn a subject, the method comprising: presenting materials on the subject to the user via a computer (*col. 4, 4-9; col. 1, 6-10*); monitoring a timing regarding an input by the user to the computer, with the input being in response to the materials (*col. 22, 54-61*); analyzing the timing; and adjusting the materials for presenting to the user in response to the analysis of the timing, wherein the adjustment adjusts a visual effect regarding presenting the materials on the subject, which is capable of improving the user's concentration in learning the subject (*col. 3, 6-18; Audio and visual effects (signals) can be adjusted.*).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petrusinsky (US 4,037,332), as applied to claim 40 above, in view of Guisinger (US 3,573,359).

Petrusinsky discloses monitoring timing from each of a number of inputs and analyzing the timing (*col. 18, 36-53; Reaction time can be monitored and analyzed as the whether the reaction time is too prolonged.*), but does not expressly disclose analyzing the timing based on averaging the timings of the number of inputs. Guisinger shows this feature to be old in the analyzing art. Guisinger discloses analyzing a timing based on an average of timings (*col. 2, 49-53*). Guisinger teaches that this has the possibility of reducing error (*col. 2, 49-53*). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention from the teaching of Guisinger to modify the analysis of Petrusinsky by using the averaging as taught by Guisinger to reduce error in the analysis.

Claims 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petrusinsky (US 4,037,332), as applied to claim 45 above, in view of Lee et al. (US 5,267,865).

Petrusinsky discloses applicant's basic inventive concept of method for assisting a user to learn a subject, substantially as claimed, but does not expressly disclose a question does not have to be related to the subject and the user's reply to the question is not used to assess the user's understanding of the subject. Lee shows this feature to be old in the learning art. Lee discloses giving a user the option to pause the study

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material and take a break (*col.* 6, 7-12). As the method of Petrusinsky is monitoring the state of the user, it would benefit the method of Petrusinsky to ask the user if the user would like to take a break when it senses that the user needs one. Allowing the user to take a break when necessary would help the user be more effective in learning the material. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention from the teaching of Lee to modify the questions of Petrusinsky by questioning a user about taking a break as taught by Lee to help the user be more effective in learning the material.

Response to Arguments

Applicant's arguments with respect to claims 39-47, 49-51, 56-57 and 59-63 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Andrew Stallard whose telephone number is (571) 272-2685. The examiner can normally be reached on 9:15 am to 6:45 pm - Mon - Fri (1st Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on (571) 272-4475. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Andrew Stallard
Examiner
Art Unit 3715


KATHLEEN MOSSER
PRIMARY EXAMINER